

REMARKS

Claims 1-40 are pending in the current application. Claims 1-40 currently stand rejected. Reconsideration and withdrawal of the rejections to claims 1-40 are respectfully requested in light of the following remarks.

Claim Rejections – 35 U.S.C. § 102

Claims 1-5, 7-13, 16-18, 21-25, 27-33 and 36-38 stand rejected under 35 U.S.C. § 102(e) as being anticipated by US Pat 6,617,962 to Horwitz et al. (“Horwitz”). Applicants respectfully traverse this rejection for the reasons detailed below.

Applicants previously argued that Horwitz lacked “converting the second analog signal from an analog domain to a first digital signal in a digital domain” and “identifying, with a digital processor, which transponder signaling protocol of the plurality of transponder signaling protocols was used to send the second analog signal, the identifying being based on the first digital signal” recited in the independent claims. The Examiner responds that computer processors process digital data, and because a microprocessor analyzes signal content in Horwitz and components in FIGS. 4(a)-(b) shape analog signals, Horwitz must include analog-to-digital conversion. Office Action at 2-3. Applicants respectfully reiterate that the process in Horwitz can be (and is) an entirely analog analysis, such the Horwitz does not necessarily disclose the recited analog-to-digital conversion or analysis of the resultant digital signal.

First, Applicants note that Horwitz never states that its microprocessor in control module 11 is used in pulse shaping or protocol identification. Rather, **the microprocessor is only in the application interface stage 36** of Horwitz, whereas all signal-shaping and protocol identification occurs earlier in air and data interfaces 31 and 32 and protocols stage 34. See Horwitz, Col. 7, ll. 54-57 (processor in stage 36); Col. 10, l. 66 – Col. 11, l. 4 (shaping and protocol ID in stage 34); FIGS. 3(a)-(b), 4(a)-(b). As such, no microprocessor is involved in the analog pulse shaping and protocol identification of Horwitz, and the Examiner's argument that the data must be converted to a digital domain in protocol identification due to the use of such a processor is misplaced. If anything, the pulses are probably converted to digital signals in later application interface stage 36 in Horwitz, where the microprocessor is located.

Further, the pulse shaping and analysis in stages 31, 32, and 34 (FIGS. 4(a)-(b)) that perform protocol analysis are **entirely analog, as explicitly stated by Horwitz itself**. See Horwitz, Col. 7, ll. 40-44 ("**Both the air interface stage 31 and the data interface stage 32 comprise analogue circuitry** as will be described in more detail below with reference to FIGS. 4(a) and 4(b)"); FIGS. 4(a), (b) (showing only analog circuitry). The Examiner submits that the use of the word "comprise" permits digital circuitry to be present as well, but Applicants do not see where digital circuitry could be operably used in FIGS. 4(a)-(b), let alone that any digital functions are necessarily present in Horwitz for "identifying, with a digital

processor, which transponder signaling protocol of the plurality of transponder signaling protocols was used . . . the identifying being based on the first digital signal.” Indeed, in its actual signal protocol analysis, Horwitz instead only processes signal output using PLL clocking and data separation, which is a basic analog analysis. See Horwitz, Col. 8, ll. 4-7; Col 10, l. 66 – Col. 11, l. 6. All of Horwitz’s signal-to-pulse shaping and modification are performed on analog hardware to provide analog pulses for analog analysis. See Horwitz, Col. 10, ll. 30-35 (microprocessor use only after protocol for analog pulses determined).

Of course, in order to prevail in a rejection under § 102 premised on inherency, the subject matter of the claim **must necessarily be present** in Horwitz and the Examiner must articulate why the subject matter is necessarily present. See Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The above discussion, if anything, shows how Horwitz, the only evidence in record, affirmatively omits “converting the second analog signal from an analog domain to a first digital signal in a digital domain” and “identifying, with a digital processor, which transponder signaling protocol of the plurality of transponder signaling protocols was used to send the second analog signal, the identifying being based on the first digital signal.” It is enough that Horwitz **could** use an analog-only protocol analysis, and, given the above evidence and discussion of Horwitz, it is eminently **possible (indeed very likely) that Horwitz does not perform an analog-to-digital conversion to determine transmission**

protocol as recited in the claims. Such possibility shows error in an anticipation rejection premised on inherency. See In re Rijckaert, 9 F.3d 1531, 1534 (Fed. Cir. 1993); MPEP § 2112.

As such, Horwitz lacks the analog-to-digital conversion and digital analysis of the resultant digital signal to identify a transponder signaling protocol as recited in claims 1 and 21. Because Horwitz fails to teach or suggest each and every element of claims 1 and 21, Horwitz cannot anticipate or render obvious claims 1 or 21. Claims 2-5, 7-13, 16-18, 22-25, 27-33, and 36-38 are allowable at least for depending from an allowable base claim. Withdrawal of the rejection under 35 U.S.C. § 102(e) to claims 1-5, 7-13, 16-18, 21-25, 27-33, and 36-38 is respectfully requested.

Claim Rejections – 35 U.S.C. § 103

Claims 6 and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Horwitz in view of US Pat 5,649,296 to MacLellan (“MacLellan”). Claims 14 and 34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Horwitz in view of MacLellan and US Pat 4,769,808 to Kanemasa et al. (“Kanemasa”). Claims 15 and 35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Horwitz in view of MacLellan, Kanemasa, and US Pat 6,831,562 to Rodgers et al. (“Rodgers”). Claims 19 and 39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Horwitz in view of US Pat Pub 2004/0160324 to Stilp (US 2004/0160324, hereinafter “Stilp”). Claims 20 and 40 stand rejected under 35 U.S.C. § 103(a) as being

unpatentable over Horwitz in view of US Pat 5,153,583 to Murdoch ("Murdoch"). Applicants respectfully traverse these rejections for the reasons detailed below.

None of MacLellan, Kanemasa, Rodgers, Stilp, or Murdoch account for the differences between the claims and Horwitz, discussed above, nor does the Examiner apply any of these references for accounting for these differences. Because Horwitz, alone or in combination with MacLellan, Kanemasa, Rodgers, Stilp, and Murdoch, fails to teach or suggest each and every element of claims 1 and 21, these references cannot anticipate or render obvious claims 1 or 21. Claims 6, 14, 15, 19, 20, 26, 34, 35, and 40 are allowable at least for depending from an allowable base claim. Withdrawal of the rejections under 35 U.S.C. § 103(a) to claims 6, 14, 15, 19, 20, 26, 34, 35, and 40 is respectfully requested.

CONCLUSION

Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections and allowance of each of claims 1-40 in connection with the present application is earnestly solicited.

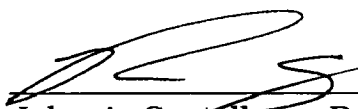
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John A. Castellano at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. §1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By


John A. Castellano, Reg. No. 35,094
Ryan E. Alley, Reg. No. 60,977
P.O. Box 8910
Reston, Virginia 20195
(703) 668-8000

JAC/REA
1073562.1